

XLV would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, of 449, 450, 457, 458, 459 and 460. 1860.

(3) Subject to rules in this behalf to be made by the ¹[²State] Government], Appointment of village-headmen by District Magistrate or Sub-divisional Magistrate in certain cases for purposes of this section. the District Magistrate ³[or Sub-divisional Magistrate] may from time to time appoint one or more persons ³[with his or their consent] ⁴[to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.]

CHAPTER V. ✓

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. (1) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action. Arrest how made.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest. Resisting endeavour to arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with ⁵[imprisonment] for life.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, ⁶[any person residing] in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein. Search of place entered by person sought to be arrested.

48. If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance: Procedure where ingress not obtainable.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it. Breaking open Zauana.

¹ Substituted by the A. O. 1937 for "L. G.".

² Substituted by the A. O. 1950 for "Provincial".

³ Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9.

⁴ Substituted, *ibid*, for "to be village-headmen for the purposes of this section in any village for which there is no, such headman appointed under any other law".

⁵ Substituted by Act 26 of 1955, s. 12, for "transportation".

⁶ Substituted, *ibid*, s. 13, for "the person residing".

Power to break open doors and windows for purposes of liberation.

No unnecessary restraint.

Search of arrested persons.

Mode of searching women.

Power to seize offensive weapons.

When Police may arrest without warrant.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

54. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest—

first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned ;

secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

thirdly, any person who has been proclaimed as an offender either under this Code or by order of the ¹[²State] Government] ;

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property [and] who may reasonably be suspected of having committed an offence with reference to such thing ;

fifthly, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ;

sixthly, any person reasonably suspected of being a deserter from ⁴[the Indian] ⁵[Army, Navy or Air Force], ⁶* ⁷[or from any unit of ⁸[the armed forces maintained by Part B States] ⁹* * * * *

¹ Substituted by the A. O. 1937 for "L. G.".

² Substituted by the A. O. 1950 for "Provincial".

³ Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 10, for "or"

⁴ Substituted by the A. O. 1950 for "Her Majesty's".

⁵ Substituted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "Army or Navy".

⁶ The words "or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service" rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

⁷ Inserted by the Code of Criminal Procedure (Amendment) Ordinance, 1944 (48 of 1944), s. 2.

⁸ Substituted by the A. O. 1950 for "Indian States Forces".

⁹ The words "declared under the Indian Extradition Act, 1903, to be a unit deserter from which is an extradition offence" were omitted by Act I of 1951, s. 8.

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of ¹[India] which, if committed in ¹[India] would have been punishable as an offence, and for which he is, under any law relating to extradition ²* * * * or otherwise, liable to be apprehended or detained in custody in ¹[India]; ³*

eighthly, any released convict committing a breach of any rule made under section 565, sub-section (3);

⁴*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.]

(2) This section applies also to the police in the towns of Calcutta and Bombay.

(2) This section applies also to the police in the town ⁵* of Calcutta ⁵* *.

55. (1) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested—

(a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear for injury.

(2) This section applies also to the police in the towns of Calcutta and Bombay.

(2) This section applies also to the police in the town ⁵* of Calcutta ⁵* *.

56. (1) When any officer in charge of a police-station ⁶[or any police-officer making an investigation under Chapter XIV] requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made. ⁶[The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.]

(2) This section applies also to the police in the towns of Calcutta and Bombay.

(2) This section applies also to the police in the town ⁵* of Calcutta ⁵* *.

57. (1) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

Refusal to give name and residence.

¹ The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

² The words and figures "or under the Fugitive Offenders Act, 1881" were omitted by Act 1 of 1951, s. 8.

³ The word "and" rep. by Act 10 of 1927, s. 3 and Sch. II.

⁴ Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 10.

⁵ The letter "s" and the words "and Bombay" rep. by the City of Bombay Police Act, 1902 (B. A. 4 of 1902), s. 2 (f) and Sch. A.

⁶ Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 11.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear ¹[before a Magistrate having jurisdiction if so required] :

Provided that, if such person is not resident in ²[India], the bond shall be secured by a surety or sureties resident in ²[India].

Pursuit of
offenders
into other
jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in ²[India].

Arrest by
private
persons and
procedure on
such arrest.

59. ³[(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station.]

(2) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Person
arrested to be
taken before
Magistrate or
officer in
charge of
police-station.

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person
arrested not
to be detained
more than
twenty-four
hours.

61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Police to
report
apprehen-
sions.

62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

¹ Substituted by Bom. 23 of 1951, s. 2 and Sch. Part 1, for "before a Magistrate if so required".

² The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

³ Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 12, for original sub-section.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the ^{Discharge of person apprehended.}
[special order of a Magistrate having jurisdiction].

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody. ^{Offence committed in Magistrate's presence.}

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant. ^{Arrest by or in presence of Magistrate.}

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in ^{Power, on escape, to pursue and retake.} ^{2[India].}

67. The provisions of sections 47, 48 and 49 shall apply to arrest under section 66 although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest. ^{Provisions of sections 47 48 and 49 to apply to arrests under section 66.}

CHAPTER VI. ✓

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. (1) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule direct. ^{Form of summons.}

(2) Such summons shall be served by a police-officer, or subject to such rules as the ^{Summons by} ^{3[State] Government} may prescribe in this behalf, by an officer of the Court issuing it or other public servant. ^{whom served.}

(3) This section applies also to the police in the towns of Calcutta and Bombay.

69. (1) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons. ^{Summons how served.}

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate. ^{Signature of receipt for summons.}

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in ^{2[India].} In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

¹ Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "special order of a Magistrate".

² The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

³ Substituted by the A. O. 1937 for "L. G.".

⁴ Substituted by the A. O. 1950 for "Provincial".